

1
2
3
4
5
6
7 BARRY D. ROSS,
8 Plaintiff,
9 v.
10 RANDSTAD PROFESSIONALS, US, LLC
11 DBA RANDSTAD SOURCERIGHT, et al.,
12 Defendants.

Case No. [21-cv-01945-SI](#)

**ORDER GRANTING DEFENDANTS'
MOTION TO STRIKE**

Re: Dkt. No. 40

13 On August 16, 2021, defendants Walmart, Inc. and Jason Corbett filed the instant motion to
14 strike paragraphs 45, 121, 126, 127, and Exhibits G and H from plaintiff's First Amended Complaint
15 ("FAC"). Dkt. No. 40. Pursuant to Local Rule 7-1(b) the Court finds this matter appropriate for
16 resolution on the papers and therefore VACATES the September 24, 2021 hearing.

17 First, defendants seek to strike paragraph 45 and Exhibit G arguing both contain information
18 from private settlement negotiations. Indeed, Exhibit G is marked as "For Settlement Purposes Only
19 Confidential and Privileged Pursuant to Evidence Code §1152 et seq." Dkt. No. 30 at 48¹. Further,
20 paragraph 45 refers to Exhibit G as defendants' "settlement offer." Dkt. No. 30 at ¶45. Plaintiff
21 argues the settlement letter is relevant and referencing it is crucial to identify "glaring shifts in
22 [defendants'] explanations for terminating Ross' employment." Dkt. No. 45. The Court disagrees.

23 Exhibit G is plainly labeled "For Settlement Purposes Only" and indeed makes an offer to
24 settle the matter. Dkt. No. 30 at 48-49. Pursuant to Federal Rule of Evidence 408 makes clear
25 "conduct or a statement made during compromise negotiations about the claim" is not admissible
26 "to prove or disprove the validity or amount of a disputed claim or to impeach by a prior inconsistent

27
28 ¹ For ease of reference, page number citations refer to the ECF branded page number in the
upper right hand corner of the page.

1 statement or contradiction.” Exhibit G and paragraph 45 fall squarely within Rule 408’s purview –
2 defendants’ motion to strike both is therefore GRANTED.

3 Second, defendants seek to strike paragraphs 121, 126, 127, and Exhibit H arguing all
4 contain “confidential personnel data[] purportedly identifying 55 individuals and providing their
5 ethnicities, employers (i.e. Walmart), job titles, and hire dates.” Dkt. No. 40 at 8. Plaintiff argues
6 all this data was gathered using publicly available methods including public websites such as
7 LinkedIn. Dkt. No. 45 at 5. However, plaintiff offers no evidence – in the form of declaration or
8 otherwise, corroborating this assertion. Defendants counter, that a person’s ethnicity is not available
9 on public websites like LinkedIn and Google, is well taken. As such, defendants’ motion to strike
10 paragraphs 121, 126, 127, and Exhibit H is GRANTED. When and if evidence concerning such
11 evidence is presented, appropriate protective orders can be crafted a necessary.

12
13 **IT IS SO ORDERED.**

14 Dated: September 14, 2021



15
16 SUSAN ILLSTON
17 United States District Judge
18
19
20
21
22
23
24
25
26
27
28